

PART I

**COMMENCEMENT OF CASE; PROCEEDINGS RELATING
TO PETITION AND ORDER FOR RELIEF**

Rule 1002-1

PETITIONS

Non-electronic filers are required to file the original bankruptcy petition with the clerk of court. The petition shall substantially conform to the Official Bankruptcy Forms.

Rule 1005-1

CAPTION OF PETITION

Any corporate name mentioned in the caption as an alias will be treated merely as a description of the named entity or as information to further identify the named entity.

Rule 1006-1

FILING FEE

An application for permission to pay the filing fee to commence a case in installments shall be accompanied by a minimum payment of \$100.00.

Rule 1006-2

FILING FEE

Reserved for future use based upon electronic payment.

Rule 1007-1

MASTER ADDRESS LIST (MATRIX)

Non-electronically filed cases must include a master address matrix listing the name and address of all creditors and interested parties that must be filed with the bankruptcy petition. The format shall be prescribed by the bankruptcy clerk.

Rule 1009-1

AMENDMENTS TO BANKRUPTCY PETITIONS, SCHEDULES AND STATEMENTS

(a) Procedure and Form. Every amendment shall be accompanied by Official Form 6- Summary of Schedules and Statistical Summary of Certain Liabilities and Related Data. An amendment cover sheet must accompany a non-electronically filed amendment. The amendment cover sheet can be found at the court's website at: www.ndb.uscourts.gov.

(b) Notice and Service of Amendment. The debtor shall give notice of every amendment to the debtor's petition, lists, schedules or statements, by serving a copy of the amendment upon all entities directly affected by the amendment, and shall file proof of service indicating the parties served and the date and method of service.

(c) Amendments Adding and Omitting Creditor. At any time after the notice of the section 341 meeting of creditors is mailed, pre-petition creditors not previously included on the mailing matrix are added by amendment; the following procedures apply:

(1) Contemporaneously with the filing of the amendment and applicable fee, the debtor shall file:

- (A) Proof of service showing service on the new creditors of the Section 341 meeting of creditors notice and proof of claim if applicable;
- (B) Discharge (if issued);
- (C) Disclosure Statement (if previously filed and served);
- (D) Plan (if previously filed and served);
- (E) Notices of Hearing on Disclosure Statement and/or Confirmation of Plan (if issued and pending); and
- (F) Orders Approving Disclosure Statement and/or Confirming Plan (if filed).

(2) An amendment to the schedule of exemptions shall be accompanied by proof of service indicating any party who may have previously objected to the claim of exemptions has been served with the amendment.

PART II

OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS

Rule 2002-1

NOTICES

(a) A list of common motions and the required notice period for each will be posted on the court's website. The clerk is authorized to update the list.

(b) Upon the filing of an application, motion or objection not provided for on this list, the clerk's office will contact the moving party with the appropriate noticing or scheduling procedure.

Rule 2002-2

NOTICE OF PREFERRED ADDRESSES UNDER 11 U.S.C. § 342(e)-(f) AND NATIONAL CREDITOR REGISTER SERVICE

(a) Registration with the National Creditor Registration Service must be accomplished through the entity that provides noticing services for the bankruptcy courts. The clerk shall prescribe the procedure for the implementation of this notice requirement.

(b) Any notice sent by the court to a creditor's preferred address, in accordance with a notice of preferred address filed by a creditor or an interested party pursuant to 11 U.S.C. § 342 (e) or § 342(f) or contained in a proof of claim filed with the court, specifying a mailing address and designating a recipient, will be conclusively presumed to have been received by the creditor or interested party upon the mailing of any notice by the court, or its noticing agent(s) to the address specified in the notice of preferred address, notwithstanding 11 U.S.C. § 342(g)(1).

Rule 2002-3

SPECIAL REQUIREMENT FOR CHAPTER 11 DEBTOR

In a Chapter 11 bankruptcy case, the debtor or the debtor's attorney shall add the agency addresses to the creditor mailing list as posted at www.ndb.uscourts.gov.

Rule 2002-4

NOTICE REQUIREMENT REGARDING U.S. AGENCIES

The debtor or debtor's attorney shall add the United States attorney for this district to the creditor mailing matrix in any case where a debt to the United States is discharged, other than for taxes. The address is posted at www.ndb.uscourts.gov.

PART III

**CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY
INTEREST HOLDER; PLANS**

Rule 3005-1

PROOF OF CLAIM

No attachments need be filed with a Proof of Claim. The clerk reserves the right to return attachments to the proof of claim to the filing party. The trustee, attorney for the debtors, debtor (if not represented by an attorney), or any party in interest may contact the filing party if additional information regarding the claim is necessary.

Rule 3011-1

PAYMENT OF UNCLAIMED FUNDS

Upon providing full proof of the right to funds held by the court, a claimant may obtain an order directing disbursement of unclaimed funds.

1. The claimant shall file a Motion for Release of Funds, an Affidavit of Identification,, a Certificate of Service showing service on the United States Attorney's Office at the address posted at www.ndb.uscourts.gov, and a proposed order.

2. Evidence of proper authority, in the form of:

a) an acceptably completed original power of attorney by the signer(s) or claimant(s) requesting release of the funds (only if applicable);

b) photocopy of photo identification such as a driver's license or passport of an individual claimant(s);

c) documentation regarding entitlement to payment regarding a decedent (only if applicable); or

d) corporate documents (if applicable) showing proof of ownership of funds through amendment, merger, or dissolution and proper authority to act on behalf of the corporation (only if applicable);

3. If no objections are received within ten (10) days after service of the motion, an order may be entered granting the requested payment of funds.

Rule 3015-1

CONFIRMATION OF CHAPTER 13 PLAN WHEN NO OBJECTIONS FILED

If no objections to a Chapter 13 plan are timely filed following appropriate notice and service, and if the case trustee reports to the court that the plan may be confirmed as filed, the scheduled confirmation hearing will not be held, and the confirmation order may be entered forthwith.

PART IV

THE DEBTORS: DUTIES AND BENEFITS

Rule 4001-1.

DEPOSIT OF RENT AND TRANSMITTAL OF RENT TO LESSORS

- (a) Any deposit of rent made by or on behalf of a debtor, pursuant to 11 U.S.C. § 362(l)(1)(B), must be in the form of a certified check or money order payable to the order of the lessor, and delivered to the clerk of court upon filing of the Petition and the Certification made under 11 U.S.C. § 362(l)(1)(A).
- (b) Debtor must file a copy of the Judgment of Eviction together with the Petition.
- (c) Upon receipt of the certified check or money order made payable to the order of the lessor which is to be accompanied by a copy of the Judgment of Eviction, tendered by the debtor pursuant to 11 U.S.C. § 362(l)(1), the bankruptcy clerk shall promptly transmit the certified check or money order to the lessor, by certified mail/return receipt requested, to the address listed on the Petition.

Rule 4008-1

REAFFIRMATION AGREEMENTS

- (a) All Reaffirmation Agreements filed with the court shall substantially conform to procedural form B-240A, Reaffirmation Agreement.
- (b) Reaffirmation Agreements which are filed and contain deficiencies will be deemed incomplete and an Order to Comply will be issued specifically outlining the deficiencies. Deficiencies which will cause a Reaffirmation Agreement to be incomplete include, but are not limited to:
 - 1) Improper form (i.e. any form that does not substantially conform to procedural form B-240A);
 - 2) Lack of requisite signatures on form or incomplete/incorrect completion of the form; or
 - 3) Filed without a Motion for Approval of Reaffirmation Agreement (Pro se filers only).
- (c) If defects are not cured within fifteen (15) days of the date of the Order to Comply, no further action will be taken on the Reaffirmation Agreement.

(d) Continued failure to comply with reaffirmation agreement procedures by an attorney will result in an Order to Show Cause as to why the attorney should not be held in contempt.

PART V

COURTS AND CLERKS

Rule 5001-1.

TELEPHONIC ARGUMENTS AND CONFERENCES

(a) *Requests for Telephone Conference.* Counsel for a party in any case or proceeding may, upon a timely request made not less than three days prior thereto, ask that a hearing upon a motion, or a pre-trial conference or other matter, be held by a telephone conference. The attorney making such a request shall first contact the other parties in interest so as to be able to advise the court whether other counsel agree or do not agree to such procedure. The court will determine if the matter may be appropriately scheduled for a telephone conference and will consider potential savings in travel time and expenses.

(b) *Arrangements for Conference Calls.* The party requesting the conference shall initiate, arrange for and place the call by ordinary commercial means. The court will arrange for the reporting of the conference.

(c) *Use of Exhibits.* If written documents are to be considered or reviewed at such hearings, counsel shall, in advance, mail, fax or email to the bankruptcy clerk and all counsel copies of such documents within sufficient time for them to arrive in the ordinary course of business. Procedures for submitting exhibits by fax or email shall be prescribed by the clerk of court.

(d) *Testimony.* In limited circumstances and with advance notice, the court, in its discretion, may allow telephonic testimony. The party who will be presenting telephonic testimony shall arrange for their witness to be available by ordinary commercial means during the hearing.

RULE 5001-2

VIDEO CONFERENCING

(a) *Location.* The court will provide notice of the place and time for all hearings and trials held by video conference.

(b) *Procedures.* Any party intending to introduce exhibits into evidence at the hearing is required to follow Local Rule 5001-2(c). Any witness called will be sworn in by video conference by the courtroom deputy clerk who will be located in Fargo.

(c) *Use of Exhibits.* If written documents are to be considered or reviewed at such conferences, counsel shall, in advance, mail, fax or email to the bankruptcy clerk and all counsel copies of such documents within sufficient time for them to arrive in the ordinary course of

business. Procedures for submitting exhibits by fax or email shall be prescribed by the clerk of court.

d) *Decorum*. Bankruptcy Court Local Rule 5072-1 applies to all video conference proceedings. Parties appearing by video conference are expected to enter the video conference room quietly as other hearings may be in session. Upon entering the video conference room, parties are to sit around the perimeter of the room and wait silently until their case is called by the court. When called, parties are to approach the conference table and situate themselves so that they are able to view the video screen and be seen by the court .

RULE 5005-1

ELECTRONIC FILING

Any document filed by an attorney shall be filed electronically using the court's Case Management/ Electronic Case Filing system. The clerk is authorized to amend the Case Management/Electronic Case filing administrative procedures in keeping with the needs of the court.

RULE 5005-2

DOCUMENTS FILED IN CLOSED CASES

Unless otherwise directed or instructed by the court, no action will be taken on any documents filed electronically or conventionally received in a closed case. Electronic filers will receive an electronic notice that no action will be taken of the documents and documents non-electronically filed will be returned to the filing party unfiled.

RULE 5005-3

TRANSMISSION OF DOCUMENTS BY FACSIMILE OR E-MAIL

Except as provided for in Rules 5001-1(c) and 5001-2(c), filing papers by facsimile or e-mail is not permitted. Material for filing may be sent to the clerk by facsimile or e-mail in limited emergency situations only after express authorization by the court.

Faxed or e-mailed documents authorized to be filed by the court will constitute the original document. The original signed document shall be retained by the filing party in accordance with this court's CM/ECF administrative procedures.

A party requesting facsimile or e-mail transmission to or from the court will be assessed the fee for reproducing any record or paper as set forth in the Judicial Conference Schedule of Fees.

RULE 5005-4

SEALED DOCUMENTS

A party seeking to file a document under seal shall file a motion, along with supporting memorandum and a proposed order, and file the document with the clerk of court. Said motion must contain the phrase “Motion to Seal” in the caption.

A party seeking to seal a document which has previously been filed shall file a motion, along with supporting memorandum and a proposed order, and file the motion with the clerk of court. Said motion must contain the phrase “Motion to Seal” in the caption.

Any document under seal will be sealed in its entirety. Portions of a document cannot be put under seal. Future procedures for submitting documents under seal may be prescribed by the clerk of court.

RULE 5071-1.

MOTIONS FOR CONTINUANCE

Motions for continuance of any bankruptcy matter, including adversary cases, shall be promptly filed as soon as the grounds therefor are known and will be granted only for good cause shown, either by affidavit or otherwise. Stipulations for continuances will not be recognized except for good cause shown.

In the case of Section 341 meetings, the motion shall be directed to the presiding trustee or U.S. Trustee who will in his or her discretion, grant or deny the motion.

If a continuance is granted the moving party is responsible for noticing all parties of the continuance and, if a continuance has been granted within five (5) days before the scheduled bankruptcy matter or adversary proceeding, notice shall be by telephone in addition to written notice.

RULE 5072-1.

CONDUCT

(a) Opening Court.

The regular convening hours of the court will be determined by the presiding judge.

(b) Decorum.

An attorney appearing in this court shall comply with all rules of decorum established by the presiding judge and the following minimum standards:

- (1) Be punctual in attendance before the court.
- (2) Stand when the judge or jury enters or leaves the courtroom.
- (3) Examine witnesses from the counsel table or podium, except when necessary to approach a witness or the clerk's desk for the purpose of presenting or examining exhibits.

(c) General Provisions.

- (1) No person will be permitted to enter any area of a courthouse building without having first, if requested by a security officer, submitted his or her person and any item in his or her possession, to such officer for inspection.
- (2) Jurors, parties, attorneys, witnesses and other persons having business in the building shall enter and leave the building, courtrooms, chambers and offices only through such doorways and at such times as shall be designated by the security officer or officers of the courthouse building.
- (3) No person may act in an unseemly or disorderly manner in the rooms, halls, courtrooms, entry-ways or stairways of any such building or courtrooms, or otherwise interfere with or obstruct judicial activities or proceedings.
- (4) All persons entering the courtroom while the court is in session shall immediately be seated and shall conduct themselves in a quiet and orderly manner. Persons shall be fully clothed in an attire suitable to the maintenance of the dignity of the court. The reading of newspapers, books or magazines, the chewing of gum or food in the courtroom is not permitted while court is in session. No person will be allowed to enter or leave the courtroom while the court is charging a jury, except in an emergency. Spectators leaving a courtroom while court is in session or at any recess may not loiter in the halls or rooms of any United States courthouse, and may be readmitted to any courtroom only in accordance with the provisions of this rule.
- (5) Televising, recording, or taking of photographs in the courtroom, adjoining corridors, and other areas adjacent thereto, including areas where grand jury proceedings are being conducted, is prohibited whether or not the court is actually in session. The use of electronic or photographic means for the presentation of evidence, the perpetuation of a record, or the broadcasting, televising, or recording of a ceremonial, or naturalization proceeding may be allowed by a judge.

(d) Assignment of Cases.

(1) Counsel shall observe the assignment of cases and keep advised of the progress of business in court and be ready when cases are reached.

(2) No arrangements as to time or order of trial will be recognized unless approved by the court.

(3) Any party in interest may request a time and date certain.

PART VI

**COLLECTION AND LIQUIDATION OF
THE ESTATE**

(Reserved)

PART VII
ADVERSARY PROCEEDINGS

Rule 7007-1.

MOTIONS IN ADVERSARY CASES

Upon serving and filing a motion in an adversary proceeding as defined by Rule 7001 of the Federal Rules of Bankruptcy Procedure, or within five days thereafter, the moving party shall serve and file a brief. The adverse party has 10 days thereafter within which to serve and file an answering brief. Upon the filing of briefs, the motion will be deemed submitted and taken under advisement by the court, unless the court requests oral argument on said motion. The court may, in its discretion, order oral argument on its own motion, or upon application of either party filed within five days after the time has expired for filing briefs. The court will schedule the time and place for oral arguments.

Rule 7016-1.

PRETRIAL CONFERENCES AND SCHEDULING

All adversary proceedings and contested matters are exempted from requirements of Civil Rule 16(b) unless otherwise ordered.

Rule 7026-1.

DISCOVERY

In adversary proceedings and contested matters unless otherwise ordered:

Automatic disclosure procedures described in Civil Rule 26(a)(1), 26(d) and 26(f) are not required.

The time limits set forth in Civil Rule 26(a)(2)(c) and 26(a)(3) are not applicable.

The requirements of Civil Rule 16(b) are not applicable.

Discovery is limited to 60 calendar days after joinder of issue unless the court by order directs otherwise.

Discovery materials shall not be filed unless directed by the court.

Rule 7052-1.

PREPARATION OF ORDERS

It will be sufficient for Rule 7052 of the Federal Rules of Bankruptcy Procedure if the findings of fact and conclusions of law are stated orally and recorded in open court following the close of evidence. Unless otherwise determined by the court, orders announced in open court shall immediately be prepared by the prevailing party, served upon the opposing counsel or parties and submitted to the court for signature.

Rule 7056-1.

MOTIONS FOR SUMMARY JUDGMENT

Upon any motion for summary judgment pursuant to Fed. R. Civ. P. 56, there shall be attached to the motion and also included in the supporting brief, a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried.

In response to the motion, the adverse party shall file, separate from the brief, a short and concise statement of the material facts as to which it is contended there exists a genuine issue to be tried. The adverse party has 30 days after service of a brief in support of a motion for summary judgment within which to serve and file an answer brief.

All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.

Failure to file briefs within the prescribed time will subject such motions to summary ruling and the failure to file a brief by the moving party shall be deemed an admission that, in the opinion of counsel, the motion is without merit, and such failure to file a brief by the adverse party be deemed an admission that, in the opinion of counsel, the motion is well taken.

Rule 7065-1.

SERVICE OF INJUNCTIVE ORDERS

In all cases other than those specifically ordered by the court where temporary restraining orders, preliminary injunctions, or permanent injunctions are issued by the court and filed with the clerk, the clerk is hereby authorized and directed to deliver a certified duplicate of the original document to the marshal or such other person as designated by the court, to exhibit to the party being served and upon which to make the marshal's return of service; said marshal or such other person to return said document to the clerk's office as soon as may be practicable after service.

Rule 7067-1.

DEPOSITS IN COURTS

(a) Deposit of funds with the Treasurer of the United States. Unless the court orders otherwise, all monies paid into the registry of the court shall be deposited with the Treasurer of the United States pursuant to 28 U.S.C. § 2041 and cannot be withdrawn except by order pursuant to 28 U.S.C. § 2042.

(b) Deposit of funds with a designated depository. If the court orders that monies paid into the registry of the court be deposited with a designated depository, counsel shall prepare a proposed order that:

- (1) states the amount to be paid into the registry of the court;
- (2) designates the depository into which such amount is to be deposited;
- (3) specifies the terms of the deposit;
- (4) states the taxpayer identification number of the entity to whom any interest earned will represent income;
- (5) provides that the parties assume any and all risks of the deposit;
- (6) provides that the parties, not the clerk, are responsible for interest rates, renewal dates, and the like;
- (7) provides that the parties, not the clerk, are responsible for obtaining any and all subsequent orders that may be necessary or appropriate to maintain the account or seek distributions from the account; and
- (8) provides that the clerk may deduct from any income earned on the account a fee, not to exceed that authorized by the Judicial Conference of the United States, without further order of the court.

PART VIII

**APPEALS TO DISTRICT COURT OR
BANKRUPTCY APPELLATE PANEL**

(Reserved)

GENERAL PROVISIONS

Rule 9010-1.

STUDENT PRACTICE RULE

Any applicable local student practice rules of the United States District Court, District of North Dakota shall also apply to student practice in the United States Bankruptcy Court, District of North Dakota.

Rule 9015-1.

JURY TRIALS

Any applicable local jury trial rules of the United States District Court, District of North Dakota shall also apply to jury trials held in the United States Bankruptcy Court, District of North Dakota.

Rule 9017-1.

EXHIBITS

(a) Marking Exhibits. All original exhibits shall be marked by the courtroom deputy before the hearing or trial. All copies of exhibits shall be marked by the proponent before the hearing or trial. Plaintiff/Movant shall use exhibit numbers 1-50 while Defendant/Respondent uses exhibit numbers 51-100.

(b) Custody of Exhibits. All exhibits which have been offered or received in evidence (except those described in subpart (d) of this rule or those of unusual bulk or weight) shall be left with the clerk and retained in the clerk's custody, unless the court orders otherwise, and shall be returned to the respective attorneys offering them upon the expiration of the time for appeal. Exhibits of unusual bulk or weight shall remain in the custody of the attorney producing them, who shall permit their inspection by any party for the purpose of preparing the record on appeal, and who shall be charged with the responsibility of their safekeeping and transportation to the appellate court or panel. Exhibits offered at a hearing or trial will not be included in the electronic case file. Exhibits will be returned to the parties 20 days after the disposition of the matter or trial. Exhibits that appear to be copies will not be returned.

(c) Removal after Appeal. In cases in which an appeal is taken, such exhibits shall be removed by the parties within thirty days after the filing and recording of the mandate of the appellate court or panel.

(d) Reservation of Power to Rule. Nothing contained within this local rule shall prevent the court from a specific ruling it might deem advisable with respect to any exhibit. Specific

handling of exhibits may be addressed by counsel to the court prior to the trial or hearing.

Rule 9019-1.

STIPULATIONS

Unless otherwise directed by the court no agreement or consent between the parties or their attorneys with respect to proceedings and motions in Rules 7001 and 9014 of the Federal Rules of Bankruptcy Procedure shall be binding unless reduced to writing, signed by the parties or their attorneys, accompanied by a motion, unless a related motion has been filed, or made a part of the record in open court. Unless otherwise directed by the court no stipulation shall be effective unless such stipulation is approved by the court in writing. Stipulations shall be accompanied by an appropriate proposed order.

Rule 9022-1.

ENTRY OF ORDERS

All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under Fed.R.Bank.P. 5003 and 9021. All signed orders will be filed electronically by the court or court personnel. Any order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order and it had been entered on the docket in a conventional manner. Orders may also be issued as “text-only” entries on the docket, without an attached document.